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Chairperson: Mr. Penke ..... (Latvia)

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The meeting was called to order at 10.05 a.m.

Agenda item 69: Promotion and protection of human rights (*continued*)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*)

1. **Ms. Kang** Kyung-wha (Deputy High Commissioner for Human Rights) read out a statement by Mr. Sengupta, Chairperson-Rapporteur of the Working Group on the Right to Development, on the report of the Working Group on its tenth session. That statement referred to the Group's creation in 2004 of a high-level task force on the implementation of the right to development, the adoption in 2006 of a preliminary set of criteria for evaluation of global partnerships which could promote that right, with the aim of improving their effectiveness, and the establishment in 2007 and 2008, respectively, of a road map and a workplan for the task force.

2. The Working Group, at its tenth session, had made two main recommendations to the task force: that it should submit a new list of criteria along with corresponding operational sub-criteria for the elaboration of a set of guidelines in that area; and that the criteria and sub-criteria should address other aspects of the right to development beyond those enumerated for Millennium Development Goal 8.

3. In order to facilitate the implementation of those two essential recommendations, the Working Group had also recommended, inter alia, that the task force should draw on specialized expertise and the experience of countries in promoting the right to development; continue to study development partnerships in relation to technology transfer and debt relief; and pay due attention to other issues relevant to the right to development, including poverty, hunger, climate change and the global economic and financial crisis.

4. Lastly, the Human Rights Council had endorsed the recommendations of the Working Group in its resolution 12/23.

5. **Mr. Khane** (Secretary of the Committee), recalling that the President of the General Assembly had announced that the report on the work of the twelfth regular session of the Human Rights Council would be considered in plenary session, announced that the meeting planned for two days later had been cancelled and invited the Committee to complete its consideration of the current items by the afternoon of the next day.

6. **The Chairman** said that he took it that the Committee wished to adopt the proposed changes to its programme of work.

7. *It was so decided.*

Agenda item 67: Elimination of racism, racial discrimination, xenophobia and related intolerance (A/64/18, A/64/271, A/64/295, A/64/309, A/64/487 and A/CONF.211/8)

(a) Elimination of racism, racial discrimination, xenophobia and related intolerance (A/64/18 and A/64/295)

(b) Comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action (A/64/271, A/64/309, A/64/487 and A/CONF.211/8)

Agenda item 68: Right of peoples to self-determination (A/64/311 and A/64/360)

8. **Ms. Kang** Kyung-wha (Deputy High Commissioner for Human Rights), outlining the content of the two reports she was submitting under agenda item 67 (b), said that the first, a report of the Secretary-General (A/64/309), contained information received from 9 Member States and 12 organizations both within and outside the United Nations system on the new measures undertaken towards implementation of the Durban Declaration and Programme of Action, including the Durban Review Conference of April 2009, and highlighted the role of the various United Nations mechanisms and bodies working on that implementation.

9. The second, the report of the Durban Review Conference (A/CONF.211/8), was procedural in nature. The Review Conference had made tangible and substantive progress in the international community's struggle against discrimination and had brought that struggle to the next level. Immediately following the Review Conference, the High Commissioner for Human Rights had established a cross-divisional task force on follow-up, which had proposed a programme against racism and intolerance. The General Assembly should grant the Office of the High Commissioner the

additional resources required to live up to the expectations created by the Review Conference and should endorse the report to give legal status to the outcome document and to ensure that its financial implications were duly considered.

10. Turning to the report of the Secretary-General (A/64/360) under agenda item 68, she drew attention to the conclusions and recommendations included in the report of the high-level fact-finding mission to Beit Hanoun (A/HRC/9/26) and to the follow-up action requested by the Human Rights Council. She also referred to the concluding observations formulated by the Human Rights Committee and the Committee on Economic, Social and Cultural Rights.

11. **Mr. Muigai** (Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance), submitting his interim report (A/64/271), briefly outlined the activities carried out over the past year. He referred to his visits to Germany and the United Arab Emirates, the various meetings in which he had participated and the thematic issues addressed. On the subject of racial discrimination, he said that he welcomed the recent developments within the United Nations on the question of discrimination based on work and descent. He commended the draft principles and guidelines to eliminate caste discrimination that had been presented in Geneva in September with the support of the Office of the High Commissioner for Human Rights and endorsed, inter alia, by the Government of Nepal, and called on States to rally around that document.

12. As for the situation of Roma, he had released a joint press statement with the Independent Expert on minority issues and reiterated his call for Governments to address the root causes of the problem and to tackle the violence affecting Roma people in Europe.

13. Turning to the issue of incitement to racial or religious hatred, he referred to his recent submission of the report on the manifestations of defamation of religions, and in particular on the serious implications of Islamophobia, on the enjoyment of all human rights by their followers (A/HRC/12/38) to the Human Rights Council. During the interactive dialogue with Member States, he had noted that the controversy over terminology relating to the concepts of "defamation of religions" and "incitement to racial or religious hatred" was distracting attention from real problems, and he had recommended reliance on existing human rights norms.

14. Referring briefly to the interrelated problems of racism and poverty, he reaffirmed the need to collect ethnically disaggregated data and, reiterating his recommendation, called on States to discuss how to achieve that goal rather than discussing whether to do so. In relation to genocide, he highlighted the importance of early warning systems and recommended that new problems be prevented by means of country visits, reports and letters with allegations of human rights violations.

15. Turning to his report on the implementation of General Assembly resolution 63/162 (A/64/295), which he had prepared on the basis of information provided by a number of States on the measures taken to combat racist and xenophobic practices, he emphasized the struggle against political extremism, including the extremism of neo-Nazi and skinhead groups. In that regard, he invited States to implement international human rights standards, in particular article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination, but also noted that a legislative response alone was not sufficient to eliminate deep-rooted racist mentalities and recommended that it be supplemented by, inter alia, training for State agents and media professionals and the participation of all, including persons targeted by discrimination, in decision-making. He also encouraged States parties to the Convention to recognize the competence of the Committee on the Elimination of Racial Discrimination to examine individual communications.

16. In conclusion, he recommended that all States should acknowledge that racism existed in their society and should adopt a broad understanding of the concepts of racism, racial discrimination, xenophobia and related intolerance in order to take appropriate measures to fight its manifold manifestations.

17. **Mr. Rastam** (Malaysia), speaking on behalf of the States members of the Organization of the Islamic Conference (OIC), said that OIC member States attached great importance to the Special Rapporteur's mandate, which addressed one of the most serious human rights issues of the day. He welcomed the regular dialogue between OIC member States and the Special Rapporteur on the issue. Turning to the recent phenomenon of defamation of religions, which undermined the democratic and multicultural foundations of many societies, he said that the resolutions proposed by OIC on the subject and, in

some cases, adopted by the Human Rights Council and the General Assembly called for respect for all religions and beliefs. Recalling resolution 63/171, the General Assembly's most recent resolution on the subject, he regretted that the Special Rapporteur's report illustrated so poorly the correlation between defamation of religions and increasing incitement to hatred and intolerance, even though many examples could be found. Recalling that discrimination on religious grounds was generally associated with other human rights violations, he asked the Special Rapporteur what he thought about the work being done in that regard by the Ad Hoc Committee on the Elaboration of Complementary Standards to the International Convention on the Elimination of All Forms of Racial Discrimination.

18. **Ms. Liu** Guiming (China) said that, while the Durban Review Conference was an important part of the international community's efforts to combat racism since 2001, follow-up to the Review Conference was even more important. She asked what could be done to ensure that States followed up on the outcome document of the Review Conference and translated their commitments into action. Noting the interest taken by the Special Rapporteur in such issues as racial and religious hatred, Islamophobia and defamation of religions since his previous report, she invited him to share his conclusions and asked him to recommend ways of preventing violence on religious grounds.

19. **Mr. Mamdouhi** (Islamic Republic of Iran) welcomed the work being done in Geneva by the Ad Hoc Committee on Complementary Standards. Such work should complement the measures adopted by the international community at the Durban Review Conference. It was important to preserve the integrity of the Special Rapporteur's mandate, as adopted by the General Assembly and the Human Rights Council, throughout the entire process of preparing his reports for the various United Nations bodies. He asked what steps could be taken at the national and international levels to prevent the momentum generated by the Review Conference from dying out and what States could do to honour their commitments. Lastly, it must be ensured that the Ad Hoc Committee's discussions remained limited to racism-related issues and to the objectives of the Durban Declaration and Programme of Action and of the outcome document of the Review Conference. In that regard, he asked the Special Rapporteur what he intended to do should the Ad Hoc Committee stray outside its mandate.

20. **Mr. Muita** (Kenya) said that freedom of expression could be an obstacle when trying to ban extremist political parties, movements and groups. He regretted the failure by certain States to take action to address the problem. He asked what could be done to tackle such groups while respecting their freedom of expression and how the international community could force those responsible to take responsibility for their actions should the phenomenon spread.

21. **Ms. Mårtensson** (Sweden), speaking on behalf of the European Union, said that her delegation was pleased to hear that the Special Rapporteur intended to place greater emphasis on identifying early warning indicators of violence.

22. In view of the Special Rapporteur's comments that respect for human rights standards was the best defence against manifestations of racism and that States should not only adopt appropriate legislative measures but also cooperate with civil society, she wished to know about best practices on the ground. Furthermore, in view of his insistence that the various aspects of human rights were interdependent, she wished to know whether he intended to participate in other joint meetings similar to the one in which he had taken part on the sidelines of the Durban Review Conference with the Special Rapporteur on freedom of religion or belief and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.

23. **Mr. Attiya** (Egypt) said that the tendency by a number of politicians and media to ridicule certain religious beliefs under the pretext of the right to freedom of expression only increased prejudice against certain religious communities. The Movement of Non-Aligned Countries had asked the Special Rapporteur, at their meeting of 30 September, to include in his future reports information about any jurisprudence that punished manifestations of racial discrimination and threats against places of worship. He wished to know whether it was possible to be the victim of double discrimination, in other words, discrimination on racial grounds and discrimination on religious or other grounds, and whether incitement to hatred was bound to manifest itself in immediate violence or whether it could also manifest itself over the long term.

24. **Ms. Pérez Álvarez** (Cuba) said that she was concerned about acts of xenophobia against immigrants

in developed countries. Such acts reinforced racial discrimination in those countries and encouraged the demonization of Islam, particularly by the media. She mentioned, in that connection, the terrorism and immigration laws adopted by certain developed countries. She regretted the fact that a group of countries had withdrawn from the Durban Review Conference and wished to know more about the obstacles that stood in the way of combating racial hatred against immigrants and implementing the recommendations of the Review Conference.

25. **The Reverend Bené** (Observer for the Holy See) said that racial discrimination was nothing more than a lack of respect for the individual. He therefore welcomed the Special Rapporteur's emphasis on human rights. Education and awareness-raising must continue to be pursued with a view to changing attitudes. Respect for the individual would ultimately lead to respect for beliefs and religions.

26. **Mr. Vimal** (India) said that the concept of "descent" did not include that of "caste". His Government continued to reject general recommendation No. 29 concerning discrimination on the grounds of descent because it lacked intellectual rigour and went against the Vienna Convention on the Law of Treaties. Moreover, his delegation found the reference extremely shocking given the history of India, particularly Gandhi's struggle against racial discrimination in South Africa.

27. **Mr. Tarar** (Pakistan) wished to know how the increasingly common phenomena of Islamophobia and defamation of religions featured among the early warning indicators of violence mentioned by the Special Rapporteur and whether such phenomena were social in nature or simply the manifestation of freedom of expression. He also wished to know how the recommendations of the Durban Review Conference could be applied to new forms of intolerance.

28. **Mr. Muigai** (Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance), responding to the question about the elaboration of complementary standards, said that, while the issue was not within his mandate, he wished to see a gradual evolution of law based on internationally recognized legal principles.

29. With regard to defamation of religions, he was convinced that the spread of ideas targeting certain religions was a form of intolerance and that the international community, as a community of human rights, must therefore intervene. However, consideration must be given to existing international standards when addressing the issue. If complementary standards were needed, existing rules must be respected.

30. With regard to ways of implementing the recommendations of the Durban Review Conference, the documents themselves were very clear. He should, however, point out that, in most of the countries he had visited, people were unaware, or even denied, that discriminatory practices existed. If countries wished to combat racism and xenophobia effectively, they should be realistic about their situation and tackle the problem from the bottom up, through education, communication and dialogue.

31. Extremist political parties were on the rise, particularly in Europe, where they were tolerated under the pretext of freedom of expression. Such political parties posed a serious threat to democracy and peace and, since most of their members were young people, were likely to endure.

32. In his view, there was no contradiction between freedom of expression and freedom of religion. Both were fundamental rights that were indispensable for the full exercise of democracy in free societies. A framework was needed where freedom of expression would be exercised in such a way that took account of freedom of religion and the right of individuals to enjoy such freedom provided it did not harm anyone else. He recommended that Member States refer to the outcome document of the Conference held in Geneva in 2008 under the auspices of the Office of the United Nations High Commissioner for Human Rights.

33. In his view, it was possible to be subject to discrimination on various fronts and different types of discrimination could be mutually reinforcing.

34. With regard to the question of caste, he said that, for human rights to be more than an empty shell, all human beings must be considered equal.

35. Lastly, he welcomed the cooperation extended to him during his visit to the United Arab Emirates and invited other Member States to follow that country's example.

36. **Ms. Shameem** (Chairperson-Rapporteur of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of

the right of peoples to self-determination), introducing the Working Group's fourth report, said that the Human Rights Council had requested the Working Group to consult a wide range of stakeholders with a view to preparing a draft convention on the regulation of private military and security companies. The Working Group had taken account of the basic principles it had established as well as recent human rights treaties. It had circulated a preliminary draft to some 250 experts, academics and non-governmental organizations (NGOs) worldwide for comments. It expected to circulate a reworked draft to Member States in 2010.

37. The draft convention prepared by the Working Group identified inherently governmental State functions that should not be outsourced to non-State entities and invited States to establish a system for registering, licensing and regulating the activities of private military and security companies and their personnel and to force the latter to take responsibility for their actions. The draft therefore provided mechanisms for ensuring that the activities of such companies were subject to national and international oversight and monitoring and that allegations of abuses and violations of human rights and international humanitarian law were investigated. Such companies were concentrated in a handful of countries; it would be wise to involve such countries in the preparation of the draft convention. Several countries, including the United States and the United Kingdom, had already taken steps in that regard.

38. During its visit to the United States in July 2009, the Working Group had noted that the United States Government had taken steps to ensure that the Baghdad tragedy of 2007 did not happen again and had adopted legislation and regulations aimed at strengthening oversight and accountability of private military and security companies. The Working Group welcomed those measures. The Working Group had presented the Government with a list of preliminary recommendations and had stressed the need to ensure that human rights violations committed by such companies or by their personnel did not go unpunished.

39. During its visit to Afghanistan in April 2009, the Working Group had commended the Government of Afghanistan for enacting a specific regulation on national and international private security companies operating in the country. The Government must now ensure that the regulation was implemented fully. In Afghanistan, the Working Group had met with representatives of a number of local and international NGOs, all of whom had told him that, rather than generating a feeling of security for the Afghan population, the large presence of armed private guards created a climate of fear and insecurity.

40. The United Kingdom had launched a nationwide consultation on a Government proposal to introduce a package of measures designed to improve standards of behaviour of military firms and private security companies in that country, based on both self-regulation and the promotion of international norms. In addition, the Government would cooperate by building on the Montreux Document on Private Military and Security Companies and by working to set accepted international standards for the companies concerned. It would also support the establishment of an impartial and transparent complaint mechanism.

41. The Working Group felt that the recent consultation was a step in the right direction, but that self-regulation was not sufficient and that it would be necessary to supplement it with the establishment of an international legal framework and national legislative measures.

42. With regard to the issue of mercenaries, the Working Group verified the information that it received on mercenaries operating as free agents. Although the phenomenon was less common than it had been in the 1980s and 1990s, it did still exist and must be taken into account. The Working Group strongly recommended that States which had not yet done so should ratify the International Convention against the Recruitment, Use, Financing and Training of Mercenaries as soon as possible.

43. The Working Group had recently convened its third regional consultation on traditional and new forms of mercenary activities and on the activities of private military and security companies and their effects on the enjoyment of human rights in Bangkok with the participation of 15 countries from the region. The purpose had been to get an idea of the local situation and to consider the fundamental question of the role of the State as holder of the monopoly on the legitimate use of force. The last two consultations should take place in 2010.

44. The Working Group believed that Member States should engage in efforts parallel to those of the Working Group to establish higher standards and set up human rights protection mechanisms. It urged States to

respect their obligations under international human rights law.

45. **Ms. Pérez Alvarez** (Cuba) said that she was gratified that the Working Group had continued the work begun by the previous Rapporteur and reaffirmed the importance of strengthening the legal framework related to mercenaries. All States should take the necessary measures to pass legislation in that area. Cuba condemned those countries which had concluded agreements granting legal immunity to private military and security companies. There were certain functions which were the exclusive domain of the State and should not be outsourced, such as direct participation in hostilities and handling prisoners of war or terrorists. To Cuba, there was a close connection between terrorism and mercenary activity, and it would be advisable for Member States to make provisions for transparent legal mechanisms, including the extradition of the guilty. In that regard, the Cuban delegation wished to know if the Working Group had information on the Cuban terrorist who was at large in the United States and whose actions, including the destruction of a Cuban airliner in mid-flight, constituted mercenary activities.

46. **Mr. Vigny** (Switzerland) also recommended that private military and security companies should develop a code of conduct appropriate to their sector. He thanked the Chairperson-Rapporteur for her active participation in the conference held at Nyon, Switzerland and encouraged her to continue her cooperation with his country. He asked how the Working Group intended to promote the broadest possible acceptance of the draft international convention on private military and security companies and what role those entities could play in efforts to avoid outsourcing State functions.

47. **Ms. Shameem** (Chairperson-Rapporteur of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination), responding to the representative of Cuba, said that she had recently made an official visit to the United States and awaited a reply from its Government regarding follow-up to the Carriles affair. In addition, the elaboration of a draft convention would follow the process laid down in the relevant resolution of the Human Rights Council, and would then be circulated to Member States who could make comments so that changes could be made and they could decide about further steps. She hoped that the draft would be ready in 2010. The consultations with private military and security companies in the United States and in the United Kingdom had been very constructive. The draft convention would have to define which basic functions of the State could be entrusted to such companies without violating international law. It was a matter of knowing who must assume responsibility for human rights violations committed by private entities acting in conflict zones on behalf of a State, the extent to which States could control the activities which they outsourced and what dangers total privatization of war could pose if States did not exercise sufficient control over the activities which they entrusted to those entities.

48. **Mr. Ahmed** (Sudan), speaking on behalf of the Group of 77 and China, said that the Group reaffirmed that the International Convention on the Elimination of All Forms of Racial Discrimination and the Durban Declaration and Programme of Action were the fundamental legal framework for the effective elimination of racism, racial discrimination, xenophobia and related intolerance. Slavery and the slave trade, especially the transatlantic slave trade, apartheid, colonialism and genocide must never be forgotten and, in that regard, the measures taken to honour the memory of victims were welcomed.

49. The Group welcomed the progress achieved at the national, regional and international levels in conformity with the obligations under the Durban documents, and General Assembly resolution 63/242 was recalled in that regard. However, the erosion of liberties since the tragedy of 11 September 2001, and in particular, the increase in religious intolerance, were cause for concern. It noted the measures adopted by Member States, the United Nations system and the international community as a whole to promote tolerance and respect for cultural and religious diversity.

50. The Group welcomed the adoption by consensus of the outcome document of the Durban Review Conference, which had allowed the international community to reaffirm its will to combat racism and gave renewed impetus to the realization of the objectives contained in the Durban Declaration and Programme of Action. It emphasized that each State must uphold the commitments set forth in the outcome document and regretted the fact that some of them had chosen not to attend the Conference.

51. The Group recognized that the effectiveness of regional and international mechanisms to combat racism, racial discrimination, xenophobia and related intolerance must be strengthened in order to enhance the synergy, coordination, coherence and complementarity of the initiatives taken and urged the United Nations system and especially the Department of Public Information to enhance the visibility of the Durban Declaration and Programme of Action, as well as their follow-up mechanisms.

52. **Mr. Bart** (Saint Kitts and Nevis), speaking on behalf of the States members of the Caribbean Community (CARICOM), said that the phenomenon of racism and racial discrimination particularly affected the people of the Caribbean, who were descended from slaves. CARICOM was gratified by the annual observance of the International Day of Remembrance of the Victims of Slavery and the Transatlantic Slave Trade on 25 March which provided an opportunity to reflect on the magnitude of the phenomenon in history and to stress the need to continue joint action throughout the world to eradicate that scourge. He welcomed the adoption by the General Assembly of a resolution on the initiative to erect a permanent memorial to ensure that that crime against humanity would never be forgotten or repeated.

53. CARICOM expressed its appreciation to the United Nations Educational, Scientific and Cultural Organization (UNESCO) for its commemoration of the International Day for the Remembrance of the Slave Trade and of its Abolition and the Slave Route Project, as well as for its initiative aimed at the restitution of cultural property to countries of origin. Its work was an example of an approach which filled the knowledge gaps about those matters, as the Secretary-General had stated. CARICOM took note of the work done by the Committee on the Elimination of Racial Discrimination, which had adopted recommendations concerning nine periodic reports of States parties to the International Convention on the Elimination of All Forms of Racial Discrimination, and also took note of its activities related to early warning and urgent action. He expressed appreciation to the United Nations High Commissioner for Human Rights for coordinating the annual observance of the International Day for the Elimination of Racial Discrimination, on 21 March, and for organizing a high-level panel on the theme, "United against Racism: Dignity and Justice for All", on 19 March. The efforts of the Office of the High Commissioner to prepare the Durban Review Conference, through the organization of numerous events which had allowed non-governmental organizations and Governments to consider a broad range of issues, was also appreciated.

54. CARICOM commended the important work being done by the Human Rights Council and noted the various resolutions it had adopted at its tenth session. It welcomed the plan of action adopted by the Ad Hoc Committee of the Human Rights Council on the Elaboration of Complementary Standards to the Convention. It also underlined the critical mandate of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and thanked him for his efforts in a wide range of areas, noting his participation in a conference on "Human rights in culturally diverse societies: challenges and perspectives" organized by the Council of Europe. It concurred with the Special Rapporteur that there were links between poverty and race or ethnic origin, that the vulnerability of racial or ethnic minorities generally had historical causes and that systems based on slavery, segregation and apartheid had created structural imbalances that remained to the present day. It further noted that the Special Rapporteur had drawn attention to the fact that the current economic crisis was leading to ethnic and racial tensions that had an impact on migrants.

55. CARICOM agreed with the Secretary-General that the outcome document of the Durban Review Conference created further impetus for the implementation of the Durban Declaration and Programme of Action, represented a turning point in the way the human rights system would approach the issues and would serve as a model for analysing the issues within the mandate of the Special Rapporteur. It reiterated its support for the efforts of the Working Group of experts on people of African descent and commended it, in particular, for its work on the situation of children of African descent. On the regional level, CARICOM took note of the ongoing negotiations in the Organization of American States on a draft inter-American convention against racism and all forms of discrimination, which focused on the protection of individual rights, the duties of States and the development of mechanisms for protection.

56. In conclusion, CARICOM pointed out that the elimination of racism, racial discrimination, xenophobia and related intolerance was vital to a

civilized global society, particularly given the many challenges it faced.

57. **Mr. Mahiga** (United Republic of Tanzania), speaking on behalf of the Southern African Development Community (SADC), said that its member States, which had experienced slavery, the slave trade and colonialism, understood that they must unite their efforts to end racism and racial discrimination. It was a source of pride that the Durban Declaration and Programme of Action had been adopted in the SADC member State that had experienced the apartheid regime.

58. The Community believed that racism and discrimination were contrary to the purposes and principles of the United Nations Charter and the Universal Declaration of Human Rights and endorsed to the statement made by the High Commissioner for Human Rights on the International Day for the Elimination of Racial Discrimination. All SADC member States had prohibited racism under their constitutions and had acceded to international instruments to combat racism in all its forms as well as to the African Charter on Human and Peoples' Rights. The Community agreed with the Special Rapporteur that legislative measures played an important role but that they must be coupled with education, intercultural dialogue and social activism in order to create a society based on pluralism, tolerance and respect for others. It acknowledged the initiatives taken by the United Nations to that end, including the Alliance of Civilizations and the Tripartite Forum on Interfaith Cooperation for Peace.

59. Recalling that poverty, political marginalization, exclusion and human rights violations exacerbated racism and intolerance, the Community emphasized that action to combat those scourges would lead to a more equitable distribution of resources in order to guarantee social justice and equal opportunities, particularly in the context of multiple current crises. It shared the Special Rapporteur's view that such action should focus on the links between social class and race or ethnicity and encouraged all Governments to take action to redress the structural imbalances caused by slavery, segregation and colonialism.

60. The Community welcomed the holding of the Durban Review Conference, which had reaffirmed the fundamental importance of the Durban Declaration and Programme of Action, had strengthened States' resolve to implement those instruments, had called attention to certain current problems such as incitement to religious hatred, the need to protect human rights when combating terrorism and possible limitations to the right of freedom of speech, and had also recommended that the intergovernmental mechanism within the framework of the Human Rights Council should strengthen the anti-racism machinery. It also welcomed the adoption by consensus of the outcome document of the Durban Review Conference and invited States that had not participated in the Conference to express their support for that document.

61. The Community commended the role of the High Commissioner for Human Rights in the process and welcomed her proposal to mainstream the Durban documents in the United Nations system, while pointing out that resources were required for that purpose. It requested her to support Member States in their efforts in that area. It also called upon all parties to renew their commitment to multilateralism and to reassert the central role of the United Nations in addressing racism, racial discrimination, xenophobia and related intolerance. Lastly, it reiterated its commitment in that regard and said that it was ready to work with the international community to implement fully the Durban Declaration and Programme of Action as well as the outcome document of the Durban Review Conference.

62. **Ms. Mårtensson** (Sweden), speaking on behalf of the European Union; the candidate countries Croatia, the former Yugoslav Republic of Macedonia and Turkey; the stabilization and association process countries Albania, Bosnia and Herzegovina, Montenegro and Serbia; and, in addition, Armenia, Azerbaijan, Georgia, Liechtenstein and the Republic of Moldova, said that, despite the magnitude of discrimination in all its forms, it was possible to combat it without violating fundamental freedoms, such as freedom of speech, by promoting dialogue and the free exchange of ideas, raising public awareness of human rights violations and promoting media independence. While incitement to violence or hatred against individuals or groups of individuals was reprehensible, freedom of speech, one of the foundations of a tolerant and democratic society, must never be suppressed.

63. The European Union had adopted many legislative and political measures to combat racism, requiring member States to introduce laws prohibiting

racial discrimination in everyday life, including in employment, education, health care and housing. The Council of Europe, the Organization for Security and Co-operation in Europe (OSCE) and many European non-governmental organizations were engaged in monitoring, reporting, awareness-raising and research activities and provided support for legal reform, while the European Union Agency for Fundamental Rights supported, through data collection and analysis, the implementation of European legislation to combat racism and discrimination. The European Union would not relent and intended to continue taking strong action.

64. The European Union lamented that the International Convention on the Elimination of All Forms of Racial Discrimination, which had entered into force 40 years earlier, was not always being fully implemented in practice, that some countries still refused to ratify it, formulating reservations that were contrary to its purpose, and that others were not fulfilling their obligation to submit reports to the Committee on the Elimination of Racial Discrimination or to implement the monitoring, early warning and urgent action procedures established by the Committee. The European Union called for the universal ratification of the Convention and urged all States to strengthen their cooperation with the Committee.

65. The European Union welcomed the fact that the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance had cooperated with the Special Rapporteur on freedom of religion or belief and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression to anchor their work in the appropriate international legal context.

66. The European Union had participated actively in the preparations for the Durban Review Conference, whose outcome should serve as the basis for the fight against racial discrimination, and planned to continue contributing to the work of the Intergovernmental Working Group on the effective implementation of the Durban Declaration and Programme of Action to achieve concrete results on the ground.

67. The European Union had yet to be convinced of the need to adopt complementary legal standards. If, however, such standards proved necessary, they must be based on specific elements and correspond to the recommendations of the Committee on the Elimination of Racial Discrimination. The work of the Ad Hoc Committee on the elaboration of complementary standards must be guided by a spirit of consensus and must not go against existing international norms. The European Union felt that the international community should concern itself above all with the current lack of implementation of the standards contained in the International Convention on the Elimination of All Forms of Racial Discrimination and other relevant international instruments, which explained why acts of racism, racial discrimination and xenophobia continued to take place and were not investigated and punished.

68. **Ms. Viktorova** (Russian Federation) said that she regretted that, six months after the adoption of the Durban Review Conference outcome document which expressed the will of the international community to act at all levels to combat racism, there were no tangible results.

69. Given the obligation to remember the tens of millions of people who had fallen victim to racist ideologies during World War II, the world could not allow historical episodes to be overlooked in silence or rewritten, racist ideologies condemned by international law to be resurrected and past events reinterpreted to serve short-term political interests and encourage hate and racial and religious discrimination.

70. Neo-Nazi organizations were spreading in Europe, recruiting young people and committing racist crimes which were presented as manifestations of the right to freedom of expression and were considered to be nothing more than violations of public order. Given those contemporary forms of racism, it was not enough simply to legislate. Children and young people must also be educated and trained, and they must study history. States should, objectively and without double standards, evaluate the current situation in the fight against racial discrimination.

71. **Mr. Tarar** (Pakistan) said that in keeping with its commitment against racism, his country had participated actively in the elaboration of the Durban Review Conference outcome document, which expressed the collective will of States to combat racism and denounced new forms of discrimination and intolerance, particularly profiling and negative religious stereotypes.

72. Pakistan noted with concern that racist and xenophobic behaviours motivated by a rejection of

diversity had spread and gained new legitimacy, and that in the name of identity and national preferences, migrants, foreigners and minorities continued to be denied their most fundamental rights.

73. Pakistan welcomed efforts to modify standards and legislation to strengthen protections against racism, but regretted that they were not being transformed into concrete action. The elaboration of a stricter international legal regime was necessary, and the work of the Ad Hoc Committee on the elaboration of complementary standards would be especially useful in that regard.

74. Pakistan regretted that practitioners of one of the worst forms of racism, the incitement to racial and religious hatred through the denigration of religions and negative stereotypes of religions or races, could take refuge behind freedom of expression and opinion to attack with impunity the rights of persons professing a different religion, disregarding accepted international standards.

75. **Ms. Shanidze** (Georgia) said that the provisions of international law must be enforced and respected by all States, regardless of their size. Those provisions existed in order to protect the legitimate interests of those who had been forced from their homes owing to conflicts.

76. In response to Georgia's request to protect its citizens against acts of discriminatory violence committed by the Russian armed forces operating jointly with separatist militias and foreign mercenaries, the International Court of Justice had supported provisional measures which were binding.

77. While recognizing that the International Court of Justice was exclusively responsible for judging whether those provisional measures had been enforced, her country had submitted factual evidence of the total failure to observe the Court's ruling. Forced displacements of ethnic Georgians from Abkhazia had been confirmed in the report of the Secretary-General (A/63/950), and the report of the European Union noted ethnic cleansing which had taken place in South Ossetia during and after the 2008 conflict. She called for a strengthening of the international legal order through the International Court of Justice and the Third Committee.

78. **Ms. Liu** Guiming (China) said that, given the guidelines set and the gaps which had been identified in the Durban Review Conference outcome document, the effective implementation of the Durban Declaration and Programme of Action required enforcing a policy of zero tolerance for all forms of racial discrimination at the national and international levels, strengthening international cooperation, preventing freedom of expression from serving as a pretext for discrimination and enhancing coordination and communication between the various Durban Review Conference follow-up mechanisms, the relevant special procedures mandate holders of the Human Rights Council and the Committee on the Elimination of Racial Discrimination.

79. Resolutely engaged in the fight against racism, China was committed to enforcing the Durban Declaration and Programme of Action and had participated actively in the elaboration of the Durban Review Conference outcome document. The Government of China had disseminated the Durban Declaration broadly throughout the country and was committed to raising public awareness of the fight against racism, racial discrimination and xenophobia. China had incorporated the provisions of the Durban Declaration into its national development plans and had duly submitted to the Committee on the Elimination of Racial Discrimination a report laying out policies and measures adopted to combat racism.

80. China affirmed that the right to self-determination was an important and inalienable right, and that all peoples living under foreign occupation had the right to fight for their sovereignty, independence and dignity. Therefore, it supported the Palestinian people in their tireless struggle for self-determination and called upon the international community to redouble its efforts to find a comprehensive and just settlement of the Palestinian question and establish sustainable peace and stability in the Middle East.

81. **Ms. Pérez Álvarez** (Cuba) said that the world owed a debt to the millions of victims of racism. Regrettably, some States had not maintained solidarity with the collective action during the Durban Review Conference, thereby undermining the fight against intolerance and racism, which was the very substance of the Durban Declaration and Programme of Action. However, it was hoped that they would not refuse to respect the objectives laid out in those documents.

82. All Cubans enjoyed the same rights, and that subject remained a priority for the Government of Cuba. Cuba had submitted a full report to the

Committee on the Elimination of Racial Discrimination pursuant to its obligations.

83. Increasingly harsh discriminatory measures and restrictive policies were a cause for concern, as shown by promulgation of new laws and regulations on immigration that encouraged racism, discrimination and xenophobia.

84. Regrettably, the Internet and new information technologies, which were powerful weapons against racism, were too often used to spread racist ideologies and for incitement to hatred.

85. She drew attention to the deplorable conditions of detention of the prisoners at Guantanamo, which were comparable to those of concentration camps.

86. Cuba called for the immediate withdrawal of Israeli forces from all the occupied Palestinian territories, including the Syrian Golan, and supported the right of Puerto Rico to self-determination.

87. Cuba also requested that such terrorists as Mr. Carriles be duly prosecuted and that the five Cuban political prisoners who were heroes of the fight against terrorism be released from American prisons.

88. **Mr. Sammis** (United States of America) said that his country, which was founded on diversity and had experienced the original sin of slavery, was aware of the misdeeds of intolerance and firmly committed to the fight again t racism. Recognizing that the struggle was far from over, the Government of the United States had continued to follow issues of race, ethnicity and national origin closely. President Obama had just signed a law against hate crimes, strengthening the ability of the Department of Justice and local authorities to deter acts of violence which targeted people of a particular race or ethnic group, women and followers of a particular religion and to prosecute perpetrators of such crimes.

89. He affirmed his country's will to participate in building a more peaceful and prosperous world and to cooperate with other countries and the United Nations to combat racial discrimination and negative stereotypes. During the June 2009 session of the Human Rights Council, the United States had hosted a side event with representatives of Governments and civil society to examine the gaps and progress made in combating racism. The United States had also sent a delegation to the Durban Review Conference to participate in the negotiations on the draft outcome document. Although they had been unable to agree to support the outcome document, judging the changes introduced to be insufficient, their determination to combat racism alongside other countries remained unchanged.

90. **Mr. Attiya** (Egypt) said that the new extremist, racist and xenophobic movements were often to be found in well-established democracies for which respect for human rights was a political and social priority. Efforts to spread a spirit of tolerance and peaceful coexistence and to give communities the resources to adapt to cultural diversity in the current era of globalization must be redoubled.

91. Unfortunately, some parties seemed to have forgotten that freedom of expression and opinion went hand in hand with the spirit of dialogue, tolerance and understanding. Equally alarming was the fact that some countries seemed to confound the fight against terrorism with discrimination against a race or religion, which could jeopardize implementation of the United Nations Global Counter-Terrorism Strategy. States must work together to address gaps in or an absence of legal instruments prohibiting incitement to hatred and discrimination and preventing impunity.

92. In that regard, Egypt attached great importance to the work currently being carried out by the Human Rights Council to elaborate complementary standards, especially as they would contribute to rebuilding confidence between North and South on questions related to discrimination. States must, for their part, uphold the commitments they had undertaken in the context of the Durban Declaration and Programme of Action to allow everyone, without distinction, to take pride in their culture and their faith.

93. States must strengthen their cooperation to promote dialogue and mutual understanding more effectively through educational activities undertaken in partnership with non-governmental organizations, the private sector and national associations. Protection of freedom of opinion was crucial, but as part of such protection, efforts must be made to prevent exacerbation of racist sentiments and hatred, and to encourage the media to raise public awareness of intolerance and conflict.

The meeting rose at 1.10 p.m.